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**From:** Zizila, Frances [Zizila.Frances@epa.gov]  
**Sent:** 6/15/2022 4:24:24 PM  
**To:** carley.doyle@law.njoag.gov  
**CC:** Haymes, David [DEP] [David.Haymes@dep.nj.gov]; Wilson, Eric [Wilson.EricJ@epa.gov]; Mellott, Deborah [Mellott.Deborah@epa.gov]  
**Subject:** Syncon Resins Site PI#019804  
**Attachments:** RE: Syncon Resins Site PI#019804; DEP settlement 2013.pdf; Farber Consent Decree.PDF

Hi Carley,

My management informed me that you have taken over legal matters related to the Syncon Site now that Lou Karagias has retired. I wanted to welcome you to the Site and I look forward to working with you on finalizing the draft MOA that was sent to NJ and the Town of Kearny at the end of April 2022. David Haymes mentioned that EPA should be receiving comments on that draft documents sometime this week.

In the meantime, I wanted to bring to your attention the correspondence below which is concerning to us at EPA. I confirmed with the attorney for the Town of Kearny (see attached), that the Town is unaware of this.

In brief, as you get up to speed on this site, the Syncon Site is an abandoned property and the Superfund cleanup has been fund lead. The owner of Lot 12, Benjamin Farber, is deceased, and the 2 other lots are still titled in defunct corporations. DEP obtained a default judgment against those 2 entities as reflected in the attached NJ Consent Decree (para. 14). EPA entered into a settlement with Benjamin Farber many years ago in an ability to pay settlement where we obtained a judgement, some cash, must approve the amount of any future sale of the site or a portion of the site, and are entitled to receive the proceeds of any sale of the Site property (para. 16). The DEP, Town of Kearny and EPA all have liens against the Site property and we have an agreement in principle on how to split those proceeds as reflected in the draft MOA. We negotiated for many years and are pleased that we can finalize this MOA and see the Site redeveloped. Any new owner is required to enter into an Administrative Agreement with DEP whereby the new owner would take over the Operation and Maintenance of the OU1 groundwater containment remedy. Deed restrictions would also be required to be placed on the property by the new owner.

The correspondence below is concerning and EPA intends to send an email to Mark Fisher requesting a copy of the contract and contact information for the buyer and seller and their attorneys. Clear title cannot be transferred to any new owner without resolution of the outstanding liens and EPA would certainly not consider any new owner to be a Bona Fide Prospective Purchaser in this case. We are unaware of anyone who has the legal authority to transfer the property and assuming that there is a person who has shares of the defunct corporation, any sale would clearly violate the requirements of the EPA Consent Decree.

Please let me know if you want to discuss this further. I will cc you on the email that I send to Mark Fisher.

Thanks,  
Frances M. Zizila  
Assistant Regional Counsel  
212.637.3135

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**From:** Mark Fisher <MFisher@elminc.com>  
**Sent:** Thursday, June 9, 2022 07:47 AM  
**To:** Defeo, Frank [DEP] <Frank.Defeo@dep.nj.gov>; Abels, Jeanette [DEP] <Jeanette.Abels@dep.nj.gov>  
**Cc:** Baxter, Pamela <baxter.Pamela@epa.gov>; Mumford, Fred [DEP] <Fred.Mumford@dep.nj.gov>; Haymes, David [DEP] <David.Haymes@dep.nj.gov>; Howitz, Wayne [DEP] <Wayne.Howitz@dep.nj.gov>; Inserra, Alphonse [DEP]

<Alphonse.Inserra@dep.nj.gov>; Karagias, Louis (LPS) <Louis.Karagias@law.njoag.gov>

**Subject:** [EXTERNAL] RE: Syncon Resins Site PI#019804

Hi all – as a follow-up to some my prior conversations with several of you, my client is now under contract to purchase this property (Block 289, Lots 13 and 13.01). We are sure when closing will occur but at this point we will be continuing our due diligence for the property. Additionally, my client (contact purchaser) may want to do some interim improvements to site (such as re-surfacing/paving and possible parking of trucks).

We would like to set up a call with the appropriate individuals regarding next steps on our end and discuss any specific requirements from the agencies, and to address any questions you may have. Let me know who on your end should be involved and I will coordinate a time for a call. Thanks Mark

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**From:** Defeo, Frank (DEP) <Frank.Defeo@dep.nj.gov>

**Sent:** Thursday, April 22, 2021 1:45 PM

**To:** Mark Fisher <MFisher@elminc.com>; Abels, Jeanette (DEP) <Jeanette.Abels@dep.nj.gov>

**Cc:** Baxter, Pamela <baxter.Pamela@epa.gov>; Mumford, Fred (DEP) <Fred.Mumford@dep.nj.gov>; Haymes, David (DEP) <David.Haymes@dep.nj.gov>; Kratina, Kevin (DEP) <Kevin.Kratina@dep.nj.gov>; Howitz, Wayne (DEP) <Wayne.Howitz@dep.nj.gov>; Inserra, Alphonse (DEP) <Alphonse.Inserra@dep.nj.gov>; Karagias, Louis (LPS) <Louis.Karagias@law.njoag.gov>

**Subject:** RE: Syncon Resins Site PI#019804

Mark,

Due to our procurement rules, I can't provide any information to you as there may be other interested parties of whom I am not aware. To obtain any further information, I have to refer you to our OPRA office. The link is below.

<https://www.nj.gov/dep/opra/>

Frank A. DeFeo  
Assistant Director, Financial Services Element  
NJDEP, Site Remediation & Waste Management Program  
p 609-633-0763  
f 609-633-2360

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NOTE: Nothing in this correspondence affects your potential liability and obligations to the State Trustee, the Department, or its Commissioner regarding natural resource injuries, restoration, or damages.

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**From:** Mark Fisher <MFisher@elminc.com>

**Sent:** Wednesday, April 21, 2021 5:31 PM

**To:** Defeo, Frank (DEP) <Frank.Defeo@dep.nj.gov>; Abels, Jeanette (DEP) <Jeanette.Abels@dep.nj.gov>

**Cc:** Baxter, Pamela <baxter.Pamela@epa.gov>; Mumford, Fred (DEP) <Fred.Mumford@dep.nj.gov>; Haymes, David (DEP) <David.Haymes@dep.nj.gov>; Kratina, Kevin (DEP) <Kevin.Kratina@dep.nj.gov>; Howitz, Wayne (DEP) <Wayne.Howitz@dep.nj.gov>; Inserra, Alphonse (DEP) <Alphonse.Inserra@dep.nj.gov>; Karagias, Louis (LPS) <Louis.Karagias@law.njoag.gov>

**Subject:** [EXTERNAL] RE: Syncon Resins Site PI#019804

Thanks Frank – can you get us some intel on the amounts of the liens by DEP and EPA (just so we have better understanding of how we might try to reach a settlement)? Also, if there are any key documents that you can share with us on the remaining remedial obligations / back up for the O&M, that would be helpful. We are going to go thru the normal channels via OPRA/FIOA to get the project files, but anything you can get to us sooner would be very much appreciated. If you think a quick call with me would be helpful, that would be great. Much appreciated. Mark

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**From:** Defeo, Frank (DEP) <Frank.Defeo@dep.nj.gov>

**Sent:** Wednesday, April 21, 2021 5:06 PM

**To:** Mark Fisher <MFisher@elminc.com>; Abels, Jeanette (DEP) <Jeanette.Abels@dep.nj.gov>

**Cc:** Baxter, Pamela <baxter.Pamela@epa.gov>; Mumford, Fred (DEP) <Fred.Mumford@dep.nj.gov>; Haymes, David (DEP) <David.Haymes@dep.nj.gov>; Kratina, Kevin (DEP) <Kevin.Kratina@dep.nj.gov>; Howitz, Wayne (DEP) <Wayne.Howitz@dep.nj.gov>; Inserra, Alphonse (DEP) <Alphonse.Inserra@dep.nj.gov>; Karagias, Louis (LPS) <Louis.Karagias@law.njoag.gov>

**Subject:** RE: Syncon Resins Site PI#019804

Mark,

DEP, EPA, and the Town of Kearny all have liens against the Syncon property.

Operations and maintenance going forward are projected at about \$410,000 annually. Some sampling will be required as well.

Frank A. DeFeo

Assistant Director, Financial Services Element

NJDEP, Site Remediation & Waste Management Program

p 609-633-0763

f 609-633-2360



**NEW JERSEY  
DEPARTMENT OF  
ENVIRONMENTAL  
PROTECTION**

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**From:** Mark Fisher <MFisher@elminc.com>  
**Sent:** Wednesday, April 14, 2021 8:48 AM  
**To:** Abels, Jeanette [DEP] <Jeanette.Abels@dep.nj.gov>  
**Cc:** Baxter, Pamela <baxter.Pamela@epa.gov>; Defeo, Frank [DEP] <Frank.Defeo@dep.nj.gov>; Mumford, Fred [DEP] <Fred.Mumford@dep.nj.gov>  
**Subject:** [EXTERNAL] RE: Syncon Resins Site PI#019804

Jeanette - Thanks again for your time on this site last week.

Frank/Pam – I have client/developer who is very interested in the property. Accordingly, we are looking to get a better understanding of the open issues at the site, including the past costs/possible settlement issues on past agency costs in the event that we want to come into DEP to talk about signing an ACO/Development Agreement. Can you provide that information for me (doesn't need to be exact – just high-level ballpark number so we can decide if this is still something we want to pursue)?

Thanks and let me know if you would like to discuss/I can set up a quick call if you think that is helpful. Mark

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**From:** Abels, Jeanette <Jeanette.Abels@dep.nj.gov>  
**Sent:** Thursday, April 8, 2021 10:25 AM  
**To:** Mark Fisher <MFisher@elminc.com>  
**Cc:** Baxter, Pamela <baxter.Pamela@epa.gov>; Defeo, Frank <Frank.Defeo@dep.nj.gov>; Mumford, Fred <Fred.Mumford@dep.nj.gov>  
**Subject:** FW: Syncon Resins Site PI#019804

As we discussed on the phone this morning, you should contact Frank DeFeo of NJDEP at [Frank.Defeo@dep.nj.gov](mailto:Frank.Defeo@dep.nj.gov) and Pam Baxter of EPA at [Pamela.Baxter@epa.gov](mailto:Pamela.Baxter@epa.gov) for information regarding the past costs for the Syncon site. You will also need to contact the Town of Kearny.

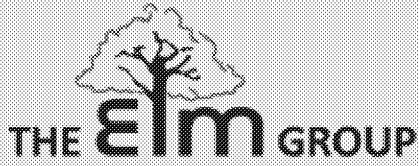
I can confirm that the DEP OPRA office is coordinating records reviews at this time.

Please contact me if you need additional information.  
Jeanette Abels

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**From:** Mark Fisher <MFisher@elminc.com>  
**Sent:** Thursday, April 8, 2021 7:51 AM  
**To:** Abels, Jeanette <Jeanette.Abels@dep.nj.gov>  
**Subject:** [EXTERNAL] Syncon Resins Site PI#019804

Hi Jeanette – I am working with someone who is interested in the property located at 77 – 89 Jacobus Ave in Kearny. Based upon the info from Dataminer it appears that this is a publicly-funded cleanup site. We are submitting an OPRA request for the DEP files but I was hoping that I could call you to discuss the site at a high level while we wait to access to the files. Let me know if there is good number to reach you (website lists 609-292-4873 but wasn't sure if this still a good number while you are working remotely) or can call contact me (best way is via cell (609) 577-3974 or email). Thanks in advance for your assistance. Mark



**MARK D. FISHER, CHMM, LSRP**

Managing Partner

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